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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,488	03/31/2004	Kanichi Sato	04036 /LH	1222

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FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 5TH AVE FL 16
NEW YORK, NY 10001-7708

EXAMINER

PAPE, JOSEPH

ART UNIT PAPER NUMBER

3612

DATE MAILED: 08/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/816,488

Applicant(s)

SATO, KANICHI

Examiner

Joseph D. Pape

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 1,2,5-14,17,19,21 and 23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3,4,15,16,18,20 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/31/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Figure 9 in the reply filed on 6/14/05 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 1, 2, 5-14, 17, 19, and 21 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 6/14/05.

Note that claim 6 recites an arrangement wherein the face of the foam is located on the side corresponding to a "ceiling face" (interior upper surface) of the operator's cab. Such arrangement does not read on the elected Figure 9 wherein the foam is spaced from the ceiling face.. Thus, claim 6 and all claims depending therefrom have been withdrawn by the examiner as being non-elected claims.

Specification

3. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 4, 18 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 4, the recitation of a "structural member" is inferentially set forth with no language specifying how such feature is associated with the roof member.

In claim 18, it is not clear which element is being referred to by the phrase "top face".

In claim 20, it is not clear which element is being referred to by the phrase "top face side".

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 3, 4 and 15, as understood are rejected under 35 U.S.C. 102(b) as being anticipated by Martin, Jr.

Martin, Jr. discloses the claimed invention including a roof member with a foam plastic portion 29 and a steel (including iron) plate 22 included or “integrated” with the foam in the formation of the roof member. The steel material inherently includes iron.

Re claim 4, the iron plate can withstand shocks from falling objects and is larger than structural member 14.

Re claim 22, fastening pieces 31 are partially embedded in the foam.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 3, 4, 15, 16, 18 and 22, as understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Lumpe et al.

Lumpe et al. disclose the claimed invention including a roof member with a foam plastic portion 16 and a metal plate 1 included or "integrated" with the foam in the formation of the roof member. The roof member bulges upwardly.

Lumpe et al. does not disclose that the specific type of metal out of which the metal plate is constructed includes iron.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the metal plate of Lumpe et al. out of steel which inherently includes iron because automobile constructions with sheets of steel are notoriously well known and constructing the metal plate of Lumpe et al. out of steel in this instance involves no new or unexpected results.

Re claim 4, the iron plate of Lumpe et al., as modified, can withstand shocks from falling objects and is larger than structural member 3.

Re claim 16, it would also have been obvious to one skilled in the art to use a polyurethane resin as the specific type of plastic foam for the foam portion of Lumpe et al., as modified, because such material in foam form is notoriously well known in automotive applications and use of such material in this instance involves no new or unexpected results.

Re claim 22, fastening pieces 4 are partially embedded in the foam.

10. Claims 3, 4, 15, 16, 18, and 20, as understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Grimm.

Grimm discloses the claimed invention including a roof member with a foam plastic portion 1 and a bent metal plate 10 included or "integrated" with the foam in the formation of the roof member. The roof member bulges upwardly.

Grimm does not disclose that the specific type of metal out of which the metal plate is constructed includes iron.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the metal plate of Grimm out of steel which inherently includes iron because automobile constructions with sheets of steel are notoriously well known and constructing the metal plate of Grimm out of steel in this instance involves no new or unexpected results.

Re claim 16, it would also have been obvious to one skilled in the art to use a polyurethane resin as the specific type of plastic foam for the foam portion of Grimm, as modified, because such material in foam form is notoriously well known in automotive applications and use of such material in this instance involves no new or unexpected results.



Re claim 20, layer 2 is a "painted sheet laminated layer" as broadly as recited and as best understood.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph D. Pape whose telephone number is (571)272-6664. The examiner can normally be reached on Tuesday-Friday 6:30 AM-3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (571)-272-6659.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Joseph D. Pape
Primary Examiner
Art Unit 3612


Jdp

August 17, 2005